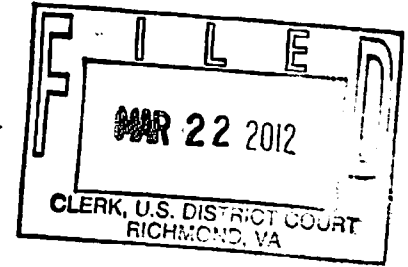


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



CATHY JO SMITH,

Plaintiff,

v.

Civil Action No. 3:12CV218

LVNV FUNDING LLC,

Serve: CT CORPORATION SYSTEM  
Registered Agent  
2 Office Park Court  
Columbia, South Carolina 29223

Defendant.

**COMPLAINT**

***I. INTRODUCTION***

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA") which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

***II. JURISDICTION AND VENUE***

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d), 28 U.S.C. §1337. Venue in this District is proper in that the defendant transacted business in this state and this district and the plaintiff chooses to bring this action here.

### ***III. PARTIES***

3. Plaintiff, Cathy Jo Smith, is a natural person residing in Linden, Virginia.

4. Defendant, LVNV Funding LLC (hereinafter "LVNV"), is a corporation engaged in the business of collecting debts in this state with its principal place of business located in Greenville, South Carolina. One of the principal purposes of LVNV is the collection of debts using the mails and telephone and it regularly attempts to collect debts alleged to be due another.

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

### ***IV. FACTUAL ALLEGATIONS***

6. Plaintiff obtained a credit card while she was living in either Prince William County, Virginia, or Fauquier County, Virginia. She made purchases on the credit card and due to financial difficulties was unable make the required payments. Judgment in the amount of \$2,858.99 was obtained on this debt on January 18, 2007.

7. This debt was eventually sold to the Defendant who filed a Garnishment Summons in the General District Court for the County of Frederick, Virginia. In response to this garnishment, payments were made by the Plaintiff to the Defendant in the amount of \$2,702.49, via a payroll deduction and payments into the Court. See **Exhibit A** for a copy of the payroll deductions.

8. Defendant garnished the Plaintiff a second time in Frederick County, Virginia, noting the judgment amount, as well as \$2,702.49 in credits Plaintiff had made towards the amount owed, with a balance claimed of \$1,172.36. See **Exhibit B** attached.

9. Defendant has garnished the Plaintiff a third time in Frederick County, Virginia, Case No. GV06001959, noting the judgment amount of \$2,858.99 even though it knew it has received \$2,702.49 from the Plaintiff in payments towards the judgment, it claims there are no credits, and that the amount due is \$3,904.81 See **Exhibit C** attached.

10. The garnishment of an improper amount from the Plaintiff has caused her and her family hardship, inconvenience, lost wages, and emotional distress.

11. Within the one year preceding the filing of this complaint, Defendant violated the FDCPA in multiple ways, including but not limited to:

a) Bringing legal action on a debt against the Plaintiff in Frederick County, Virginia, a judicial district which is neither where the Plaintiff resides, nor where the contract that was sued upon was signed; §1692i (2);

b) The attempted collection of any amount which is not expressly authorized by agreement creating the debt or permitted by law; §1692f (1); and

c) Making false and misleading representations regarding the character and status of the debt §1692(e)(2).

#### ***V. FIRST CLAIM FOR RELIEF***

12. Plaintiff repeats, realleges, and incorporates by reference the preceding paragraphs.

13. Defendant violated the FDCPA as noted above.

14. As a result of the above violations of the FDCPA, the defendant is liable to the plaintiff for plaintiff's actual damages, statutory damages, costs, and attorney fees.

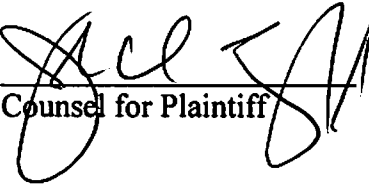
WHEREFORE, Plaintiff respectfully prays that judgment be entered against the defendant for the following:

- A. Actual and statutory damages pursuant to 15 U.S.C. §1692k;
- B. Costs and reasonable attorney fees pursuant to 15 U.S.C. §1692k; and
- C. For such other and further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

Respectfully submitted,

**CATHY JO SMITH,**

  
Counsel for Plaintiff

John Cole Gayle, Jr.  
VSB No. 018833  
The Consumer Law Group, P.C.  
5905 West Broad Street, Suite 303  
Richmond, Virginia 23230  
(804) 282-7900  
(804) 673-0316 fax  
jgayle@theconsumerlawgroup.com

Counsel for Plaintiff